

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TAMMY J. KITZMILLER, et al.	§	
Plaintiffs,	§	Civil Action No. 4:04-CV-2688
	§	
v.	§	
	§	Hon. John E. Jones III
DOVER AREA SCHOOL	§	
DISTRICT and DOVER AREA	§	
SCHOOL DISTRICT BOARD	§	
OF DIRECTORS,	§	PROPOSED ANSWER
Defendants,	§	
	§	
FOUNDATION FOR THOUGHT	§	
AND ETHICS,	§	
Applicant for Intervention	§	

Applicant for Intervention, Foundation for Thought and Ethics
(hereinafter "FTE"), Answers the Complaint as follows:

RESPONSE TO INTRODUCTION

FTE takes no position as to the purpose for which the Dover Area School District's policy was passed. However, FTE takes issue with Plaintiffs' characterization of intelligent design. Intelligent design looks to empirical observations, like the degree of information, or specified complexity, in the DNA molecule, rather than to divine revelation. Intelligent design itself does not promote

or require a divine designer. For example, not all scientists advocating intelligent design believe in God. The teaching of intelligent design does not require teaching any religious tenant. Instead, it advances the secular purpose of improved scientific teaching and critical reasoning.

RESPONSE TO ENUMERATED PARAGRAPHS

1-2 Admitted

3-11. FTE is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraphs 3-11.

12. Admitted

13. Denied

14. It is admitted that the organization listed have made such statements. FTE lacks knowledge or information sufficient to form a belief concerning the remaining allegations in paragraph 14.

15. Admitted in part. Neo-Darwinian evolution has also been criticized by some based on an analysis of the scientific data.

FTE lacks knowledge or information sufficient to form a belief concerning the remaining allegations in paragraph 15.

16. Admitted in part. FTE envisions the teaching of intelligent design which entails a scientific critique of neo-Darwinian evolution, along with the teaching of evolution. FTE lacks knowledge or information sufficient to form a belief concerning the remaining allegations in paragraph 16.
17. Denied as a conclusion of law to which no response is required.
18. Denied. Instead, FTE envisions the teaching of intelligent design which entails a scientific critique of neo-Darwinian evolution, along with the teaching of evolution.
19. Admitted in part and denied in part. It is denied that intelligent design requires a supernatural creator. It is admitted that *Of Pandas and People* makes the statements attributed to it.
20. It is admitted that traditional theistic religions believe in the existence of a creator. It is denied that intelligent design is, therefore, religious. Although the scientific data suggests an

intelligent agent, it does not require the acceptance of a supernatural creator let alone any religion.

21. Denied. Instead, intelligent design does not require divine design.
22. Denied as a conclusion of law to which no response is required.
23. Denied. Intelligent design has no religious content or purpose in itself. It requires no divine agent. Some advocates of intelligent design do believe in God, others do not. Intelligent design looks to the empirical data and the inferences logically drawn from that data.
24. Admitted in part and denied in part. It is admitted that Percival Davis and Dean Kenyon authored *Of Pandas and People* in 1989. It is denied that there is any creation science in the book. It is denied that intelligent design is a new name for creation science. Creation science looks to divine revelation in the biblical narrative. Intelligent design looks simply at the empirical observations and the inferences that may be drawn from those observations. Intelligent design has no religious

content or purpose in itself. It requires no divine agent. Some advocates of intelligent design do believe in God, others do not.

25. Admitted in part and denied in part. It is admitted that FTE publishes *Of Pandas and People*. It is denied that the statement in this paragraph is FTE's mission statement. Moreover, it does not describe the teaching of intelligent design.

26-27 Admitted

28-45. Denied as FTE is without knowledge or information sufficient to form a belief as to the truth of the averments set forth in paragraphs 28-45.

46. It is denied that intelligent design has religious content. Otherwise, the allegation is denied as FTE is without knowledge or information sufficient to form a belief as to the truth of the averment set forth in paragraph 46.

47-49 Denied.

50-51 Denied. It is specifically denied that religion is advocated or preferred through the teaching of intelligent design.

52. Denied. It is specifically denied that religion is advocated or preferred through the teaching of intelligent design or that

teachers would advocate a particular God let alone religion in general.

53. Denied.

54. Denied.

55. Denied. It is specifically denied that religion is advocated, endorsed, or preferred through the teaching of intelligent design or that there would be any governmental entanglement with religion.

56. Denied.

FIRST AFFIRMATIVE DEFENSE

The teaching of intelligent design does not advance, endorse, or prefer religion or a religious doctrine, and the teaching of intelligent design does not prefer a religious viewpoint.

SECOND AFFIRMATIVE DEFENSE

The teaching of intelligent design advances scientific teaching and critical thinking.

WHEREFORE, FTE respectfully requests this Honorable Court dismiss Plaintiffs' complaint with prejudice.

Respectfully submitted,

By: /s/Leonard G. Brown, III
Leonard G. Brown, III, Esq.
PA I.D. No. 83207
Dennis E. Boyle, Esquire
PA I.D. No. 49618
Randall L. Wenger, Esquire
PA I.D. No. 86537
CLYMER & MUSSER, P.C.
23 North Lime Street
Lancaster, PA 17602-2912
Telephone: (717) 299-7101
Facsimile: (717) 299-5115

Jeffrey C. Mateer*
Texas State Bar No. 13185320
Mateer & Shaffer, L.L.P.
1300 Republic Center
325 N. St. Paul Street
Dallas, Texas 75202
Telephone: (214) 720-9900
Facsimile: (214) 720-9910

Benjamin W. Bull, Esq.*
AZ Bar No. 009940

Gary McCaleb, Esq.*
AZ Bar No. 018848

Elizabeth A. Murray, Esq.*
AZ Bar No. 022954

ALLIANCE DEFENSE FUND
15333 N. Pima Road, Ste. 165
Scottsdale, Arizona 85260

Telephone: (480) 444-0020
Facsimile: (480) 444- 0025

Kelly J Shackelford, Esq.*

Texas Bar No. 18070950

Hiram S. Sasser, III, Esq.*

Texas Bar No. 24039157

Oklahoma Bar No. 19559

Liberty Legal Institute

903 E. 18th, Suite 230

Plano, Texas 75024

Telephone: 972.423.3131

Facsimile: 972.423.8899

* Application to be made for
admission *pro hac vice*

**Attorneys for Foundation for
Thought and Ethics**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above document was served electronically on the below listed individuals by electronic filing using the ECF system for the United States District Court, Middle District of Pennsylvania, and is available for viewing on its website.

Eric Rothschild
Alfred H. Wilcox
Pepper Hamilton, LLP
3000 Two Logan Square
18th and Arch Streets
Philadelphia, Pennsylvania 19103

Patrick Gillen
Thomas More Law Center
24 Frank Lloyd Wright Drive
P.O. Box 93
Ann Arbor, Michigan 48106

By: /s/Leonard G. Brown, III
Leonard G. Brown, III, Esq.

Date: May 23, 2005